Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 1058 of 2001
(Old No. 1226 of 1990)

U.P. Avas Evam Vikas Parishad,
104, Mahatma Gandhi Marg, Lucknow
Through the Housing Commissioner

..... Appellant.

Versus

(1) Bhagwat Sharan
(2) Ishwar Sharan
(3) Giridhar Sharan
(4) Jagadish Sharan
(5) Onkar Sharan

All S/o Shyam Sunder Lal, R/o
Village Purana Shree Nagar, Patti Kutulsyun,
District Tehri Garhwal

..... Respondents

Sri K.S. Mehta, learned Advocate for the appellant.
Shri Sudhir Kumar and Sri S.K. Jain, learned counsel for the respondents.

.....

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

This appeal has been filed by the appellant-U.P. Avas Evam Vikas Parishad against the award made by the District Judge, Parui at Garhwal in Land Acquisition Reference No. 1 of 1987 dated 12th December, 1988 made under Sec. 18 of the Land Acquisition Act for enhancement of the compensation.

The ground on which this appeal has been pressed is that the opposite Party-U.P. Avas Evam Vikas Parishad was not heard by the reference court and no notice was issued to it as the compensation is to be paid by the appellant itself, which is a necessary party in the case. In view of the law laid down by the Apex Court in **(1995) 2 Supreme Court Cases page 326, U.P. Awas Evam Vikas Parishad versus Gyan Devi (Dead) by Lrs.**

and others, the authority/ company has right to appear and adduce evidence in proceedings before reference court for determination of compensation. Therefore, on this point we allow this appeal and remand the matter to the reference court to decide the reference taking into account the evidence lead by the parties. Till the decision in the reference case, the amount deposited in this appeal shall remain deposited and the payment made shall not be recovered. The reference court is directed to decide the case within a period of two months from the dated of production of certified copy of this order.

(B.C. Kandpal,J.) **(P.C. Verma,J.)**

23.05.2006
Rajeev Dang